

# AGENDA



## BERKELEY CITY COUNCIL MEETING

TUESDAY, MAY 15, 2012

7:00 P.M.

COUNCIL CHAMBERS - 2134 MARTIN LUTHER KING JR. WAY

TOM BATES, MAYOR

Councilmembers:

DISTRICT 1 – LINDA MAIO  
DISTRICT 2 – DARRYL MOORE  
DISTRICT 3 – MAX ANDERSON  
DISTRICT 4 – JESSE ARREGUÍN

DISTRICT 5 – LAURIE CAPITELLI  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – KRISS WORTHINGTON  
DISTRICT 8 – GORDON WOZNAK

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, CMC, Acting City Clerk, 981-6900.*

*The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

## Preliminary Matters

### Roll Call:

**Ceremonial Matters:** *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

**City Manager Comments:** *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

**Public Comment on Non-Agenda Matters:** *Five persons selected by lottery will have two minutes each to address matters not on the Council agenda. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a name card to the City Clerk in person at the meeting location and prior to commencement of that meeting. Five cards will be drawn by the City Clerk to determine the speakers who will be allowed to comment during the first round of public comment on non-agenda matters. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Name cards are not required for this second round of public comment on non-agenda matters.*

**Public Comment on Consent Calendar and Information Items Only:** *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Up to three speakers will be entitled to two minutes each to speak in opposition to or support of a Consent Calendar Item. The Presiding Officer will ask additional persons in the audience to stand to demonstrate their respective opposition to or support of the item.*

*In the event that there are more than three persons wishing to speak either in opposition to or support of a "Consent" item, the Presiding Officer will move the item to the beginning of the Action Calendar. Prior to moving the item, the Presiding Officer will fully inform those persons in the audience of this process.*

*Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.*

## **Consent Calendar**

*The Council will first determine whether to move items on the agenda for action or "Information" to the "Consent Calendar", or move "Consent Calendar" items to action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".*

*After hearing from public speakers regarding items remaining on the Consent Calendar, any Council Member may move any Information or Consent item to "Action", however no additional items can be moved onto the Consent Calendar at that point. Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.*

*For items removed from the Consent Calendar to the Action Calendar for additional public comment, at the time the matter is taken up during the Action Calendar, public comment will be limited to persons who have not previously addressed that item during the Consent Calendar related public comment period.*

### **1. Amendment: FY 2012 Annual Appropriations Ordinance**

**From: City Manager**

**Recommendation:** Adopt second reading of Ordinance No. 7,235–N.S. amending the FY 2012 Annual Appropriations Ordinance No. 7,213–N.S. for fiscal year 2012 based upon other adjustments in the amount of \$19,898,633 (gross) and \$20,705,511 (net).

**Financial Implications:** See report

**First Reading Vote:** Ayes: Maio, Moore, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates; Noes – None; Absent: Anderson.

Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000

### **2. Lease Agreement: Bay Area Hispano Institute for Advancement (BAHIA) at a Building at James Kenney Park**

**From: City Manager**

**Recommendation:** Adopt second reading of Ordinance No. 7,236–N.S. authorizing the City Manager to execute a lease agreement with the Bay Area Hispano Institute for Advancement (BAHIA) for the small building located at 1718 Eighth Street at James Kenney Park for a five year term beginning July 1, 2012.

**Financial Implications:** See report

**First Reading Vote:** Ayes: Maio, Moore, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates; Noes – None; Absent: Anderson.

Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700

## Consent Calendar

- 3. Derby Street Land Vacation and Exchange with Berkeley Unified School District**  
**From: City Manager**  
**Recommendation:** Adopt the second reading of Ordinance No. 7,237–N.S.  
a. Vacating a portion of the public right-of-way of Derby Street; and  
b. Conveying the City's interests in the vacated property to Berkeley Unified School District; and  
c. Accepting, in exchange, an offer of street dedication of fee interest at 1925 Derby Street from Berkeley Unified School District for public right-of-way purposes.  
**Financial Implications:** None  
**First Reading Vote:** Ayes: Maio, Moore, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates; Noes – None; Absent: Anderson.  
Contact: Andrew Clough, Public Works, 981-6300
- 4. Amending the Massage Therapy Ordinance, BMC Chapter 9.32**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 9.32, the Massage Therapy Ordinance.  
**Financial Implications:** None  
Contact: Zach Cowan, City Attorney, 981-6950
- 5. Settlement of Kim M. Richardson v. City of Berkeley, et al.**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the settlement of the Alameda County Superior Court Action No. VG 10 494770 entitled Richardson v. City of Berkeley, et al. for \$27,500.  
**Financial Implications:** Public Liability Fund - \$27,500  
Contact: Zach Cowan, City Attorney, 981-6950
- 6. Calling for a Consolidated General Municipal Election for November 6, 2012**  
**From: City Manager**  
**Recommendation:**  
1. Adopt a Resolution a) Calling for a General Municipal Election to be consolidated with the Presidential General Election to be held in Berkeley on November 6, 2012; b) Requesting the Alameda County Board of Supervisors consolidate the City of Berkeley General Municipal Election with the Presidential General Election; c) Authorizing certain procedural and contractual actions; and d) Establishing policies for the filing of candidate statements of qualification.  
2. Adopt a Resolution establishing policies and timelines for filing ballot measure arguments.  
**Financial Implications:** General Fund - Estimated \$340,000  
Contact: Mark Numainville, Acting City Clerk, 981-6900
- 7. Formal Bid Solicitation and Request for Proposal Scheduled For Possible Issuance After Council Approval on May 15, 2012**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.  
**Financial Implications:** Various Funds - \$1,550,000  
Contact: Robert Hicks, Finance, 981-7300

## Consent Calendar

8. **Contract No. 8143A Amendment: Berkeley Food and Housing Project to Provide Homelessness Prevention and Rapid Re-Housing Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Contract No. 8143A with Berkeley Food and Housing Project to provide Homelessness Prevention and Rapid Re-Housing Services by \$4,787 to an amount not to exceed \$1,359,453.  
**Financial Implications:** Reallocation of funds  
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
9. **Body Art Ordinance, Adding BMC Chapter 11.70**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance adding Berkeley Municipal Code (BMC) Chapter 11.70 to Title 11 of the Environmental Health Code relating to the registration of body art practitioners and mechanical stud and clasp ear piercing facilities and issuance of health permits for temporary and permanent body art facilities.  
**Financial Implications:** See report  
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
10. **Supplemental Military Leave Compensation Policy**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Resolution No. 63,646-N.S. to extend the City's supplemental military leave compensation benefit to May 31, 2013 to provide additional wages to supplement an employee's military pay and allowances for a period not to exceed two years that must be taken within 36 months for employees called up to involuntary active military service.  
**Financial Implications:** No fiscal impact at this time  
Contact: David Hodgkins, Human Resources, 981-6800
11. **Contract: West Bay Builders, Inc. for Construction of the West Branch Library**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution:  
1. Approving plans and specifications for the Berkeley Public Library West Branch Improvement Project;  
2. Accepting the bid of West Bay Builders, Inc.; and  
3. Authorizing the City Manager to execute a contract, and any amendments, extensions or change orders until completion of the project in an amount not to exceed \$5,985,000 which includes a contingency of approximately 9%.  
**Financial Implications:** Measure FF - \$5,985,000  
Contact: Donna Corbeil, Library, 981-6100
12. **Contract No. 8897 Amendment: McGuire & Hester for San Pablo Park Basketball Courts Construction**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend construction contract no. 8897 with McGuire and Hester Construction, Inc. for San Pablo Park Basketball Courts Renovation Project (Specification No. 11-10561-C) to increase the amount by \$92,000 for a new total contract not-to-exceed \$534,600.  
**Financial Implications:** Various Funds - \$92,000  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700

## Consent Calendar

**13. Contract: Redgwick Construction Company for Berkeley Bay Trail Extension—Phase One**

**From: City Manager**

**Recommendation:** Adopt a Resolution:

1. Approving the plans and specifications for the Berkeley Bay Trail Extension—Phase One project (Bid Specification No. 12-10648-C);
2. Deeming that the Bid received from Team Ghilotti, Inc. is non-responsive and is rejected;
3. Deeming that the Bid received from Valentine Corporation is non-responsive and is rejected;
4. Awarding the construction contract to the lowest responsive, responsible bidder, (Redgwick Construction Company), for the amount of their Bid (\$1,480,512.50) (Caltrans Project No. RP STPL 5057 (038));
5. Authorizing the City Manager and his/her designee to execute a construction contract with Redgwick Construction Company in the amount of their bid, and to execute change orders, amendments and/or time extensions;
6. Authorizing a 15% construction contingency for an amount not to exceed \$222,077, for a total spending authority not-to-exceed \$1,702,589.

**Financial Implications:** Various Funds - \$1,702,589

Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700

**14. Recognized Obligation Payment Schedule: July 1, 2012-December 31, 2012**

**From: City Manager**

**Recommendation:** Acting as the Successor Agency for the Redevelopment Agency, adopt a Resolution approving a Recognized Obligation Payment Schedule (ROPS) for the six month fiscal period commencing on July 1, 2012 and ending December 31, 2012.

**Financial Implications:** See report

Contact: Eric Angstadt, Planning and Development, 981-7400

**15. Contract: California Constructores for the West Street Pathway Project, University Avenue to Addison Street**

**From: City Manager**

**Recommendation:** Adopt a Resolution:

1. Approving the plans and specifications for the West Street Pathway Project, University Avenue to Addison Street, Specification No. 12-10649-C;
2. Accepting the bid of California Constructores, the lowest responsive and responsible bidder;
3. Rejecting the bid protest of Redgwick Construction Company, the second lowest bidder; and
4. Authorizing the execution of a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed \$346,069 for the period of 120 calendar days from the date of the execution of the contract.

**Financial Implications:** Measure B Fund - \$346,069

Contact: Andrew Clough, Public Works, 981-6300

## Consent Calendar

### 16. **Contracts: On-Call Geotechnical and Engineering Testing Services**

**From: City Manager**

**Recommendation:** Adopt three Resolutions authorizing the City Manager to execute three contracts and any amendments, extensions or other change orders with on-call geotechnical and engineering testing support services for a combined total for all contracts not to exceed \$1,200,000 as follows:

1. Construction Testing Services, Inc. in an amount not to exceed \$400,000;
2. Inspection Services, Inc. in an amount not to exceed \$400,000; and
3. ENGEO Incorporated in an amount not to exceed \$400,000.

**Financial Implications:** Various Funds - \$1,200,000 over 3 years

Contact: Andrew Clough, Public Works, 981-6300

### 17. **FY 2013 Transportation Development Act Article 3 Fund Allocation**

**From: City Manager**

**Recommendation:** Adopt a Resolution:

1. Authorizing the City Manager to: submit an allocation request to the Metropolitan Transportation Commission (MTC) for \$163,298 from the Transportation Development Act (TDA) Article 3 funds in FY 2013 for the Berkeley Bicycle Plan Update; accept the funds; execute any resultant agreements and amendments; and authorize the implementation of the project, subject to securing the funds; and
2. Declaring that: the City of Berkeley is eligible to request an allocation of TDA Article 3 funds pursuant to Section 99234 of the Public Utilities Code; there is no pending or threatened litigation that might adversely affect the project or projects described in Attachment B to the resolution, or that might impair the ability of the City of Berkeley to carry out the project; the City of Berkeley attests to the accuracy of and approves the statements in Exhibit A to the resolution; and a certified copy of the resolution and its Exhibits, and any accompanying supporting materials, shall be forwarded to the Alameda County Transportation Commission for submission to MTC as part of the Countywide coordinated TDA Article 3 claim.

**Financial Implications:** MTC Fund - \$163,298 (revenue)

Contact: Andrew Clough, Public Works, 981-6300

### 18. **Purchase Order: Serramonte Ford for 5 Ford E-250 Cargo Vans**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a purchase order for 5 Ford E-250 cargo vans with Serramonte Ford, for an amount not to exceed \$154,000.

**Financial Implications:** Equipment Replacement Fund - \$154,000

Contact: Andrew Clough, Public Works, 981-6300

### 19. **Human Welfare and Community Action Commission Representatives of the Poor**

**From: Human Welfare and Community Action Commission**

**Recommendation:** Adopt a Resolution confirming the selection of Rico Robinson (District 2) as a representative of the poor, having been selected at the April 18, 2012 Human Welfare and Community Action Commission (HWCAC) meeting and serving until the next election in November 2012.

**Financial Implications:** See report

Contact: Drew King, Commission Secretary, 981-5410

## Consent Calendar

20. **Response to BUSD Superintendent Regarding Medical Cannabis**  
**From: Medical Cannabis Commission**  
**Recommendation:** Authorize the Medical Cannabis Commission to send a letter to the BUSD Superintendent and BUSD Board Members in response to Superintendent's letter of December 12, 2011.  
**Financial Implications:** None  
Contact: Elizabeth Greene, Commission Secretary, 981-7484

## Council Consent Items

21. **Options Recovery Services: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmember Maio**  
**Recommendation:** Adopt a Resolution authorizing the expenditure of an amount not to exceed \$100 per Councilmember to be used for a grant to support the 15<sup>th</sup> Year Anniversary Gala of Options Recovery Services, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Maio and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Fund - \$100  
Contact: Linda Maio, Councilmember, District 1, 981-7110
22. **Support of Commercial Real Estate Industry and High-Tech Campuses Receiving a Living Wage and Compensation Package**  
**From: Councilmember Moore**  
**Recommendation:** Adopt a Resolution supporting the principle that the commercial real estate industry and high-tech campuses should ensure that their janitorial staff receive a living wage and compensation package.  
**Financial Implications:** Unknown  
Contact: Darryl Moore, Councilmember, District 2, 981-7120
23. **Proclamation Honoring Edward Bennett**  
**From: Councilmembers Wengraf, Arreguín, Wozniak and Mayor Bates**  
**Recommendation:** Approve the attached proclamation honoring Berkeley resident Edward Bennett for over 60 years of Environmental Activism.  
**Financial Implications:** None  
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
24. **Support Assembly Bill 1993 Relating to Mandatory Vehicle Impoundment Penalties for Unlicensed Drivers**  
**From: Councilmember Arreguín**  
**Recommendation:** Adopt a Resolution supporting Assembly Bill 1993, introduced by Assemblymember Fiona Ma.  
**Financial Implications:** None  
Contact: Jesse Arreguín, Councilmember, District 4, 981-7140

## Council Consent Items

25. **Support the Middle Class Scholarship Act (AB 1500 and 1501)**  
**From: Councilmember Arreguín**  
**Recommendation:** Adopt a Resolution supporting the Middle Class Scholarship Act, Assembly Bills 1500 and 1501, introduced by Assembly Speaker John A. Pérez.  
**Financial Implications:** None  
Contact: Jesse Arreguín, Councilmember, District 4, 981-7140
26. **2012 Berkeley Juneteenth Festival: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmembers Anderson, Arreguín, Worthington and Wozniak**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$250 from Councilmember Anderson to the 2012 Berkeley Juneteenth Festival with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Anderson and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmembers' Discretionary Funds - \$500  
Contact: Max Anderson, Councilmember, District 3, 981-7130
27. **North Shattuck Association: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmembers Arreguín and Capitelli**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember to the North Shattuck Association to support the 16<sup>th</sup> annual Chocolate and Chalk Art Festival with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmembers Arreguín and Capitelli, and any other Councilmember who would like to contribute.  
**Financial Implications:** Councilmembers' Discretionary Funds - \$250  
Contact: Jesse Arreguín, Councilmember, District 4, 981-7140
28. **Ninth Annual Berkeley World Music Festival**  
**From: Councilmember Worthington**  
**Recommendation:** Adopt a Proclamation designating June 2, 2012 as the Berkeley World Music Day.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
29. **Support Peralta Community College District Ballot Measure B**  
**From: Councilmember Worthington**  
**Recommendation:** Support Peralta Community College District Measure B, a measure seeking voter approval of an annual special parcel tax of \$48 on all parcels for a period of eight years to fund core academic programs, career training, and counseling at College of Alameda, Laney College, Merritt College and Berkeley City College.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170



## Council Consent Items

- 30. Support Proposition 29, the Tobacco Tax for Cancer Research Act of 2012**  
**From: Councilmember Worthington**  
**Recommendation:** Support Proposition 29, the Tobacco Tax for Cancer Research Act of 2012.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

## Action Calendar

*After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up. Where an item was moved from the Consent Calendar to Action no speaker who has already spoken on that item would be entitled to speak to that item again.*

*The Presiding Officer will request that persons wishing to speak line up at the podium to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.*

## Action Calendar – Public Hearing

*Staff shall introduce the public hearing item and present their comments. The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.*

*Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.*

- 31. Fiscal Year 2013 Proposed Budget Public Hearing #1**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing regarding the FY 2013 proposed budget.  
**Financial Implications:** See report  
Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000
- 32. 1722 Ninth St Public Hearing and Determination re Public Nuisance**  
**From: City Manager**  
**Recommendation:**  
1. Conduct a public hearing pursuant to Berkeley Municipal Code (BMC) Sections 23B.64.050 and 23B.60.050 and, upon conclusion, direct staff to return with a Resolution on May 29, 2012 determining that 1722 9th Street is: a) in violation of Use Permit A1931 under BMC Chapter 23B.60, and order that Use Permit A1931 be revoked; and b) a public nuisance under BMC Chapter 23B.64 and impose conditions to abate the nuisance; and  
2. Continue the Council's consideration to May 29, 2012 for adoption of the Resolution.  
**Financial Implications:** None  
Contact: Eric Angstadt, Planning and Development, 981-7400

## Action Calendar – Public Hearing

### 33. Public Hearing: FY 2013 City Fees

**From: City Manager**

**Recommendation:** Conduct a public hearing on the following fees and upon conclusion adopt Resolutions setting fees for the following:

#### a. Environmental Health Division Fee Schedule

**From: City Manager**

**Recommendation:**

1. Approving a Fee Schedule with no increase in fees for the Environmental Health Division, effective July 1, 2012, that will remain in effect until modified or rescinded, as required by Berkeley Municipal Code Sections 9.80.040; 11.12.040; 11.20.030; 11.28.040; 12.04.020; 12.04.030 and 13.40.090; and the California Health and Safety Code, Sections: 114381, 116053, 119303; and
2. Rescinding Resolution No. 65,283-N.S.

**Financial Implications:** None

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

#### b. Recreation Non-resident Fee Increases and Revised Fee Policies

**From: City Manager**

**Recommendation:**

1. Approving increases in current Recreation Non-Resident Fees to a maximum of 20% above resident fees for selected recreation programs and facilities and approve certain new fees, and rescinding Resolution No. 65,286-N.S. and all amendatory resolutions; and
2. Approving revised Policies and Procedures for Parks & Recreation Programs and Facilities, and rescinding Resolution No. 64,335-N.S., and all amendatory resolutions.

**Financial Implications:** See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700

#### c. Fee Changes to the Development-Related Services Provided by Planning and Development

**From: City Manager**

**Recommendation:**

1. Amending the fee schedule for development-related services provided by the Planning and Development Department, and
2. Rescinding Resolution No. 64,918-N.S. and amendatory Resolution Nos. 65,319-N.S. and 65,341-N.S.

**Financial Implications:** See report

Contact: Eric Angstadt, Planning and Development, 981-7400

## Action Calendar – Old Business

### 34. Contribution Limits on Contractors doing Business with the City (*Continued from April 3, 2012*)

**From: Councilmember Arreguín**

**Recommendation:** Refer to the Fair Campaign Practices Commission (FCPC) for consideration the issue of prohibiting contributions by contractors doing business with the City and the Berkeley Unified School District.

**Financial Implications:** Unknown

Contact: Jesse Arreguín, Councilmember, District 4, 981-7140

## **Action Calendar – Old Business**

- 35. Five-Minute Grace Period at Pay-and-Display Parking Meters** *(Continued from May 1, 2012)*  
**From: Councilmember Capitelli**  
**Recommendation:** Adopt a Resolution establishing a five-minute grace period for vehicles where a valid receipt from a pay-and-display meter is appropriately displayed.  
**Financial Implications:** Unknown  
Contact: Laurie Capitelli, Councilmember, District 5, 981-7150

## **Action Calendar – New Business**

- 36. West Berkeley Project – Master Use Permit Process**  
**From: City Manager**  
**Recommendation:**  
1. Adopt a Resolution certifying the Final Environmental Impact Report (FEIR) for the Master Use Permit amendments and adopting CEQA findings and the Mitigation Monitoring Program;  
2. Adopt a Resolution approving amendments to the West Berkeley Plan, and by reference the General Plan; and  
3. Adopt the first reading of the Ordinance to repeal and reenact BMC Chapter 23B.36 Master Use Permits.  
**Financial Implications:** See report  
Contact: Eric Angstadt, Planning and Development, 981-7400
- 37. Redistricting Charter Amendment Ballot Measure**  
**From: City Manager**  
**Recommendation:** Discuss the attached draft ballot measure concerning redistricting and provide staff direction.  
**Financial Implications:** See report  
Contact: Zach Cowan, City Attorney, 981-6950
- 38. Initiative Petition - Sunshine Ordinance**  
**From: City Manager**  
**Recommendation:**  
1. Adopt a Resolution submitting the Sunshine Ordinance, without alteration, to a vote of the People at the November 6, 2012 General Municipal Election.  
2. Determine whether to designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.  
**Financial Implications:** See report  
Contact: Mark Numainville, Acting City Clerk, 981-6900

## Action Calendar – New Business

39. **Ballot Measure Re-Authorizing Expenditures of Voter-Approved Taxes for Parks Maintenance, Library Relief, Emergency Medical Services, Emergency Services for Severely Physically Disabled Persons and Fire Protection and Emergency Response and Preparedness, Under Article XIII B of the California Constitution**  
**From: City Manager**  
**Recommendation:**  
1. Adopt a Resolution placing the attached measure to reauthorize spending taxes previously approved by the voters, on the ballot at the November 6, 2012 General Municipal Election.  
2. Determine whether to designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.  
**Financial Implications:** See report  
Contact: Robert Hicks, Finance, 981-7300
40. **Follow up: Legislation Related to "Mini-dorms", Amending BMC Section 14.72.080.C**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance amending Berkeley Municipal Code section 14.72.080.C to permit residents of permitted and legal nonconforming sororities, fraternities and student cooperatives to purchase residential preferential parking permits.  
**Financial Implications:** Minimal, if any, impact  
Contact: Zach Cowan, City Attorney, 981-6950
41. **a. Berkeley Police Department's (BPD) Mutual Aid Agreements, Understandings and Policies (Mutual Aid Pacts) for 2012**  
**From: Police Review Commission**  
**Recommendation:** Approve the BPD's 2012 Mutual Aid Pacts, including modifications to the following: 1) Northern California Regional Intelligence Center (NCRIC); and 2) Urban Area Security Initiative (UASI) Agreements; and 3) General Orders J-1 - Jail Policy; and 4) C-1 - Criminal Intelligence; 5) M-2 - Mutual Aid Policy; and 6) UCPD Agreement.  
**Financial Implications:** Unknown  
Contact: Lillian Mayers, Commission Secretary, 981-4950
- b. Revisions to Policies Regarding BPD Mutual Aid Memoranda of Understanding**  
**From: City Manager**  
**Recommendation:**  
1. Direct the City Manager to prepare policies for the Berkeley Police Department to implement the following Mutual Aid Memoranda of Understanding (MOU) as set forth in this report, and return with the complete package of 2012 Mutual Aid MOU's for approval in September 2012:  
a. Northern California Regional Intelligence Center (NCRIC)  
b. Department of Homeland Security, Urban Area Security Initiative (UASI)  
c. University of California Berkeley Police Department.

## Action Calendar – New Business

2. Adopt a Resolution amending Resolution No. 63,711 stating that the City of Berkeley will not comply with ICE civil immigration detainers, except as to dangerous persons who will be held for no more than 48 hours (excluding Saturdays, Sundays and court holidays) pursuant to an ICE detainer.

3. Direct the City Manager to modify the following Berkeley Police Department General Orders as described in this report: Jail Operations and Mutual Aid Policy.

**Financial Implications:** Staff time

Contact: Michael Meehan, Police, 981-5900

### 42. Establish a City of Berkeley Homeward Bound Program

#### a. From: Homeless Commission

**Recommendation:** Adopt a Resolution establishing a two-year Homeward Bound Program -- \$20,000 annually -- to be administered by the City of Berkeley's Health, Housing and Community Services Department. Additionally, the Commission recommends allocating additional bonus points, in the upcoming FY 2014 Request For Proposals process, to service providers who offer a homeward bound program that conforms to the guidelines of the City's program.

**Financial Implications:** General Fund - \$40,000

Contact: Drew King, Commission Secretary, 981-5410

#### b. From: City Manager

**Recommendation:** Refer the issue of establishing a City administered Homeward Bound Program to the FY 2014 budget process to align with the two-year community agency Request for Proposals process, expected in this fall 2012, and resultant two year community agency contracts for FY 2014-2015.

**Financial Implications:** See report

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

### 43. Status Report: Community Workforce Agreement First Anniversary Review

#### From: City Manager

**Recommendation:** Maintain the Community Workforce Agreement's (CWA) current \$1 million dollar threshold for publicly-funded construction projects for an additional 12 months to allow time to improve the effectiveness of the CWA and evaluate outcomes, especially in terms of jobs for Berkeley residents.

**Financial Implications:** See report

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

## Council Action Items

### 44. City Manager's Report of Projections of Future City Liabilities

#### From: Councilmembers Capitelli, Wengraf, Wozniak and Moore

**Recommendation:** Adopt a Resolution requiring the City Manager to develop and publish a biennial report of current City liabilities and projections of future liabilities designed to aid City staff, Council and the public in the preparation of the City's budget. The report shall be published initially in February, 2013 and subsequently in February of the second year of the City's biennial budget.

**Financial Implications:** Staff time

Contact: Laurie Capitelli, Councilmember, District 5, 981-7150

## Information Reports

45. **2011 Annual Report - Open Government Ordinance**  
**From: City Manager**  
Contact: Zach Cowan, City Attorney, 981-6950
46. **Status Report on Easy Does It Emergency Services Contract**  
**From: City Manager**  
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
47. **Update: Implementation of FUND\$ Change Management Audit Recommendations**  
**From: City Manager**  
Contact: Donna LaSala, Information Technology, 981-6500

## Public Comment – Including Items Not Listed on the Agenda –

## Adjournment

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. 1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

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Please refrain from wearing scented products to this meeting.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

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***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 3, 2012.***



Mark Numainville, Acting City Clerk

## **Communications**

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record.*

### **Item 41: Berkeley Police Department's (BPD) Mutual Aid Agreements, Understandings and Policies (Mutual Aid Pacts) for 2012**

1. Carolyn Scarr (2)
2. Jane Welford (2)
3. Vic Sadot, on behalf of the Berkeley Fellowship of Unitarian Universalists Social Justice Committee
4. Henry Clarence, on behalf of the Berkeley Gray Panthers
5. Ann Fagan Ginger, on behalf of the Meiklejohn Civil Liberties Institute
6. Xan Sam Joi, on behalf of Bay Area Code Pink
7. Sue Udry, on behalf of Defending Dissent Foundation
8. Gene Bernardi

### **Berkeley Adult School Lifelong Learning Programs**

9. Commission on Aging

### **Parking Ticket Issue**

10. Greg Popovich
11. Paul Church

### **Purchasing Policy**

12. Bob Kilcoyne

### **United Nations Treaty Reports**

13. Ann Fagan Ginger, on behalf of the Meiklejohn Civil Liberties Institute

